

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 11444 OF 2006

DATED: 12.6.2006

Between:

Sri P.V.A.S. Nehru Mohan

... Petitioner

and

The Government of A.P. represented by

Its Principal Secretary, Revenue

Department and others

... Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.11444 OF 2006

ORAL ORDER:

The writ petition is directed against a notification issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') dated 5.5.2006 proposing acquisition of Ac.3.36 cents of the petitioner's land in Sy.No.56/1 in Divili village, Peddapuram Mandal, East Godavari District.

According to the petitioner in 1986 in respect of the same land, the respondents issued a notification under Section 4 (1) of the Act for acquiring the land for the purposes of providing house-sites at the behest of the then Member of Parliament one T. Gopal Krishna. The petitioner claims to have made a representation that the land was a low lying land unfit for house-sites. According to the petitioner, pursuant to the representation those acquisition proceedings were dropped.

According to the petitioner, the then Member of Parliament Sri T. Gopal Krishna now an MLA for the Peddapuram Constituency influenced the impugned notification dated 5.5.2006 proposing acquisition of Ac.3.63 cents. The petitioner states that the lands are unfit for human habitation and having been once so determined and the earlier acquisition proceedings given up, the respondents are arbitrarily proceeding to re-notify for acquisition of the same lands. In fact, by the impugned notification invoking the urgency provisions of Section 17 (4) of the Act, the enquiry under Section 5-A of the Act has been dispensed with. The acquisition is stated to be for the purpose of allotment of house-sites for the poor under the "Indiramma Scheme".

There appears no imminent or urgent public need for the present acquisition as would legitimize the dispensing with the salutary statutory

requirement of providing an opportunity for objections, spelt out under Section 5-A of the Act. The invocation of the urgency clause and dispensing with the enquiry under Section 5-A of the Act is therefore patently illegal and unsustainable.

In the circumstances, the writ petition is disposed of at the stage of admission after hearing the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition, directing the respondents to issue a notice to the petitioner to participate in an enquiry under Section 5-A of the Act. The enquiry shall be conducted after considering the objections of the petitioner. The decision of the respondents on the objections of the petitioner shall be communicated to the petitioner simultaneously with the recommendation made by the 3rd respondent to the respondents 1 and 2 as regards the post-enquiry proposals of the 3rd respondent regarding acquisition. The petitioner shall not be dispossessed pending disposal of the enquiry under Section 5-A of the Act and communication of the decision on the petitioner's objections.

The writ petition is disposed of as above. There shall however be no order as to costs.

GODA RAGHURAM, J

Date: 12.6.2006

Note: Copy as soon as possible.

Bo cvm

